Implementation of 32 CFR Part 232

Military Pre-Conference

Annual Conference of the Association for Financial Counseling and Planning Education

November 13, 2007

Personnel and

www.USA4MilitaryFamilies.org

Federal Register

Friday,
August 31, 2007

Part VI

Department of Defense

32 CFR Part 232
Limitations on Terms of Consumer Credit Extended to Service Members and Dependents; Final Rule

Final 32 C.F.R. Part 232

- Covered credit defined as closed end:
  - Payday loans – 91 days or fewer and $2,000; use of "check or other payment instrument" or "initiate a debit or debits to the covered borrower's deposit account"
  - Vehicle title loans – 181 days or fewer and secured through title of vehicle registered for use on public road
  - Tax refund anticipation loan – expressly grants creditor to use refund
- Includes "MAPR"
  - Ensures charges known at application are included
  - Exempts unanticipated late payments and alike, taxes and imposed fees, and tax return preparation
- Does not exempt financial institutions

Final 32 C.F.R. Part 232

- Covered borrower identification allows for qualified "safe harbor"
- Allows for oral disclosures through availability of toll-free number
- Allows use of deposits to secure credit when the MAPR is not greater than 36%
- "Onerous" and "unreasonable" notices are not defined
- State preemption statement designed to afford covered borrowers the same protections of the law
- Required implementation within 30 days of release

Suggested Declaration

Federal law provides important protections to active duty members of the Armed Forces and their dependents. To ensure that these protections are provided to eligible applicants, we require you to sign one of the following statements as applicable:

I **AM** a regular or reserve member of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer.

_____

I **AM** a dependent of a member of the Armed Forces on active duty as described above, because I am the member's spouse, the member's child under the age of eighteen years old, or I am an individual for whom the member provided more than one-half of my financial support for 180 days immediately preceding today's date.

_____

OR –

I **AM NOT** a regular or reserve member of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer (or a dependent of such a member).

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Warning: It is important to fill out this form accurately. Knowingly making a false statement on a credit application is a crime.

Media Coverage

American Bankers Association: "The final regulation wisely focuses on the real-life abuses ... ," said Wayne Abernathy, ABA executive director of financial institution policy and regulatory affairs. "At the same time the Defense Department leadership was careful to preserve access to beneficial financial products, such as student loans, residential mortgage loans, refinancing, reverse mortgages, home equity loans, home equity lines of credit, along with other collateralized products."

Media Coverage

Center for Responsible Lending (CRL): "It's disappointing, and unfortunate," said [Kathleen] Keest[, senior policy counsel for CRL], "because not only can bankers 'live with' the final rules, as they told the press last week, but so can payday lenders and title lenders who prey on our troops and their families."

Media Coverage

Community Financial Services Association (CFSA): "As a result of the DOD report and resulting legislation, service members will no longer have access to payday loans to help with their unbudgeted expenses," said [Darrin] Andersen[, President of CFSA] . "Going forward, the fallacies of that recommendation, as pointed out by the GAO, should give pause to those who believe the legislation was based on sound research," Andersen concluded.

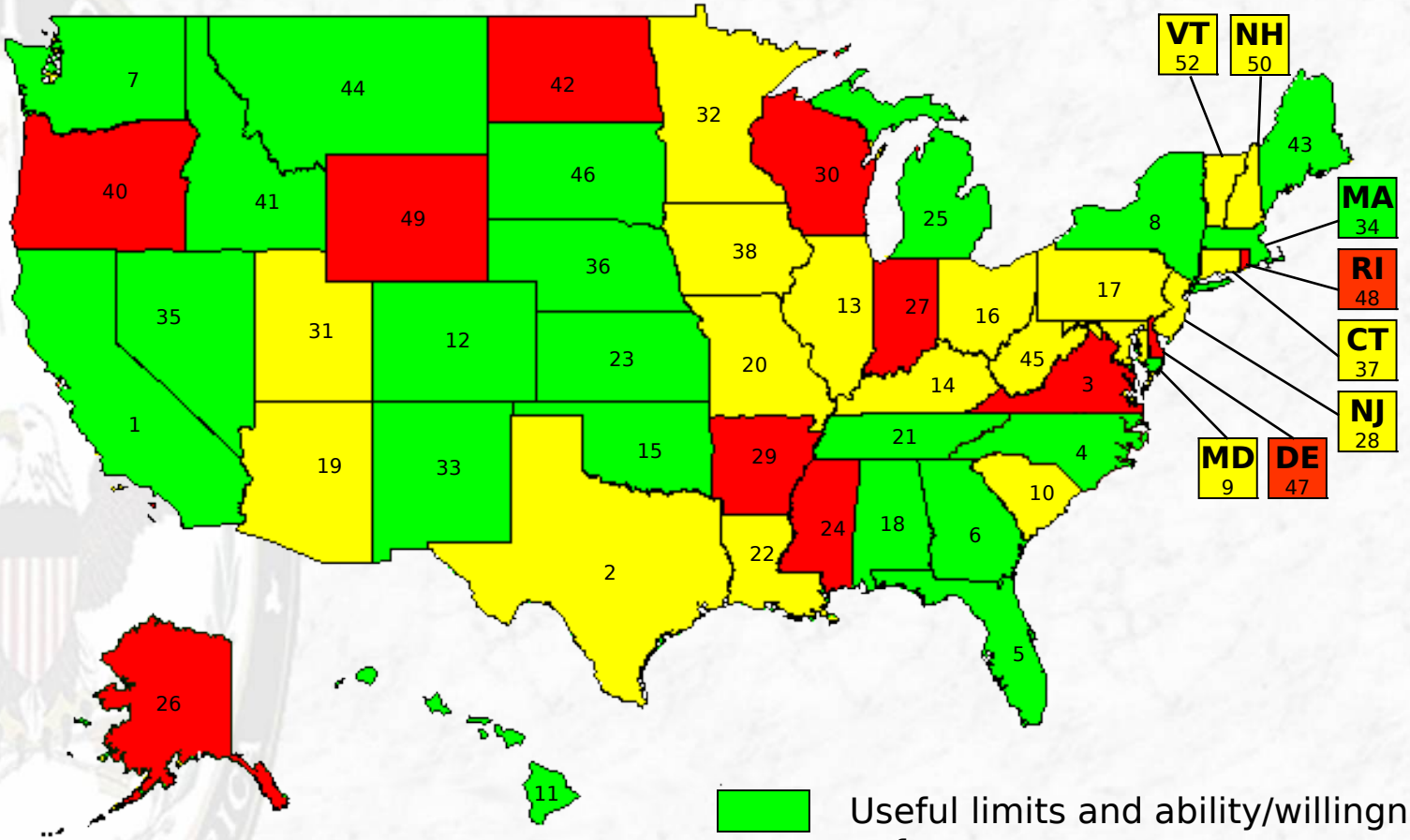
Post October 1, 2007

- Publicize the rule within DoD and monitor use of credit by Service members and their families
- Continue to educate Service members and families on appropriate use of credit
- Provide interpretations of the regulation (with assistance from Federal regulators)
- Complete the accompanying DoD Instruction which outlines internal responsibilities

State Enforcement

- Obtain assistance from national associations
  - National Association of Consumer Credit Administrators
    - Establishing a panel to work with DoD
  - National Association of State Credit Union Supervisors
    - Assisting in the development of model MOU
    - Assist in marketing proposal among states
  - Conference of State Banking Supervisors
    - TBD
- QoL Regional Liaisons develop relationships with state regulators
  - Work specifics on MOUs
  - Facilitate answering questions on interpretations
  - Watch for concerns and potential problems

Initial Assessment



Useful limits and ability/willingness to enforce

Limited laws and/or pending decisions

Not able/willing to enforce

Number in state/territory represents the ranking by size of total force and families residing within the state.

Proposed Timeline

- USD(P&R) letters to Governors – November 3, 2007
- Develop model MOU – Oct through November
- Distribute MOU through RLs and obtain feedback – December through February
- Obtain General Counsel review and obtain signatures – March through May

SASC Report Requirement

- SASC Report 110-077 – National Defense Authorization Act for FY 2008
- SASC expresses concerns
  - State enforcement
  - Installment loans
- Requests DoD submit a report April 1, 2008
  - Implementation
  - Recommendations for statutory or legislative changes

Overall Approach

- Gather information from variety of sources on changes in the marketplace
  - Use of credit
  - Availability of credit
- Review installment loan issue
  - Input from consumer advocates
  - Banks and other financial institutions
  - Federal and state regulators
- Consider all potential solutions to problems identified
  - Options from regulators
  - Changes to the regulation
  - Potential new legislation

Proposed Plan for Obtaining Input

- Request consumer advocates provide concerns and potential solutions associated with installment loans
  - Request update of their June 11, 2007 input concerning the proposed regulation
  - Request input on the impact of the regulation on consumer and credit market (February 15, 2008 deadline)
- Request Military Services and Military Aid Societies evaluate counseling cases from October 1st through February 1st
  - For situations where borrower obtained a covered loan or other loan above 36% MAPR
  - Answer five questions
  - Deadline for response: February 15, 2008

Five Questions

1. Describe the borrower – grade, married/single, single/multiple family paychecks, etc.
2. What circumstances required the borrower to obtain high cost loans?
3. What was the borrower's level of debt, and how much cash was needed to satisfy immediate needs?
4. What types of credit were outstanding (to include credit cards, installment loans, overdraft protection, lines of credit, etc.)?
5. Low cost alternatives (to include banks, credit unions, and military aid societies) where the borrower obtained a loan or where the individual was turned-down from receiving support.

Proposed Input and Coordination

- Request input from trade associations, financial institutions, Federal and State regulators on concerns and solutions from consumer groups
  - Letters to trade associations with Februrary 1, 2008 response
  - Letters to Federal and State regulators with February 1, 2008 response
  - Federal register request with February 8, 2008 response
- All input will be needed by February 15, 2008
- Coordinate report in March 2008
  - Services and Federal agencies coordination NLT March 17th
  - OGC coordination and release by USD(P&R) to OMB NLT March 24th

Need Your Help

- Watch for Service members falling into debt, needing immediate cash and not finding assistance
- Be familiar with alternative loans and how Service members can take advantage of them
- Watch for whatever is causing the most trouble for Service members – we now have opportunities to address them